

General Information Letter: Items of income included in or excluded from gross income for federal income tax purposes are similarly included or excluded from base income unless a specific addition or subtraction modification applies.

March 5, 1999

Dear:

This is in response to your letter dated January 20, 1999 in which you request a Private Letter Ruling. Department of Revenue ("Department") regulations require that the Department issue only two types of letter rulings, Private Letter Rulings ("PLRs") and General Information Letters ("GILs"). PLRs are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. GILs do not constitute statements of agency policy that apply, interpret or prescribe the tax laws and are not binding on the Department. For your general information we have enclosed a copy of 2 Ill. Adm. Code Part 1200 regarding rulings and other information issued by the Department.

Although you have not specifically requested either type of ruling, the nature of your question and the information provided require that we respond only with a GIL.

In your letter you stated:

In the fall of 1998, my wife and I enrolled our first grade (dependent) daughter in a parochial school which is owned and operated by the church of which we are members. The church considers the school to be one component of the total program of the church. The cost of operating the school is borne by the entire congregation (rather than the just the parents of the students) through contributions received in church offering envelopes. Specifically, the informational letter from the school states the following:

**CONTRIBUTIONS OF MEMBERS OF XXX XXXXX XXXXXXXXX XXXXXX**

"Members of XXX XXXXX XXXXXXXXX XXXXXX will contribute as their hearts are moved by the Lord, through their church offering envelopes to support the total program of the church, which includes our Christian School. The operation cost to our school, therefore, is borne by the entire congregation, along with other programs of the church.

Although there is a very real cost for such a venture (cost-per-student for the school year is \$XXXXX, including operating and maintenance expenses, and pro-rated capital costs), there is a price paid in other ways, such as the dedicated service given by pastors, teachers, and personnel to assure that such a place will always be a reality...."

Although the actual "cost-per-student for a school year is about \$XXXXXX (as stated above), church members are not charged a tuition fee to send their children to the school. Non-members pay an annual tuition fee of about \$XXXXXX for one student. Both members and non-members pay other (non-tuition) fees totaling about \$XXX - \$XXX per year to send a child to school.

Like other members, my wife and I support the church through offerings - though not in an amount sufficient to cover the entire \$XXXXXX cost-per-student.

Please provide me with a written response (mailed to the address shown above) stating the Illinois Department of Revenue's answers to the following questions regarding taxable income and deductible contributions.

1. Is there any type of (taxable) income which accrues to me because my child is receiving an education (as described above) for which I have not had to pay tuition? To the best of my knowledge, the school does not send its members a tax reporting form (e.g. a 1099) which includes a taxable income figure.
2. If not having to pay tuition does constitute some type of income, how do I determine the dollar value of the benefit? Is there a tax publication which deals specifically with this question? Where on IL-1040 should this income be reported? Do I use the \$XXXXXX cost-per-student figure or the (\$XXXXXX) tuition cost paid by non-members? Do I reduce the amount of income by some (or all) of the contributions I've made to the church in support of their total program - of which the school is a part? If so, how do I determine the amount to subtract?

## **DISCUSSION**

Section 203 of the Illinois Income Tax Act ("IITA") defines base income for Illinois income tax purposes as "[I]n the case of an individual...an amount equal to the taxpayer's adjusted gross income for the taxable year as modified by paragraph (2)..." Paragraph (2) lists several addition and subtraction modifiers which either add to, or subtract from, a taxpayer's adjusted gross income. Section 102 of the ITTA further states:

Except as otherwise expressly provided or clearly appearing from the context, any term used in this Act shall have the same meaning as when used in a comparable context in the United States Internal Revenue Code of 1954 or any successor law or laws relating to federal income taxes and other provisions of the statutes of the United States relating to federal income taxes as such Code, laws and statutes are in effect for the taxable year. (Source: P.A. 77-726.)

The determination of Illinois taxable income thus begins with the adjusted gross income figure found on line 32 of the Federal 1040. This figure is adopted by Illinois and any exclusion or deduction from income taken prior to line 32 of the federal 1040 is also excluded for Illinois income tax purposes unless a provision of the ITTA adds the income back into base income. Similarly, any credit, deduction or exclusion available on the Federal 1040 is not to be considered for Illinois income tax purposes if the provision appears after line 32 on the Federal 1040.

In the case of charitable contributions, they are considered an itemized deduction and computed on a taxpayer's schedule "A." A taxpayer's itemized deductions are taken on line 35 of the federal 1040 and therefore are not considered by Illinois when determining base income, unless a provision of the ITTA specifically excludes them. There is no Illinois income tax deduction or exclusion for amounts contributed to charities.

By the same token, there is no additional income from the school tuition waived unless it is part of federal adjusted gross income or there is an addition modification found in §203 of the ITTA. The first question is one of federal law. The answer to the second question (is there an addition modification) is "no." Therefore, the waiver of the tuition would not be considered income for Illinois income tax purposes unless it was considered a part of gross income by the federal government. As mentioned before, the Department may not comment on this question. For an answer, you must contact the Internal Revenue Service.

I hope that this has been helpful to you. If you have additional questions please feel free to contact me at the above address.

Very Truly Yours,

Charles Matoesian  
Staff Attorney